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SUBJECT: Rwanda 2007 Investment Climate Statement

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¶1. In response to reftel, the following is the 2007 Investment Climate Statement for Rwanda:

OPENNESS TO FOREIGN INVESTMENT

The GOR is making progress economically as it recognizes that the private sector is an essential engine of development. The government is extremely welcoming of foreign investment in policy and in practice.

In March 2006, the government enacted an updated investment law to facilitate investors to obtain necessary licenses, visas, work permits, and tax incentives. The law provides permanent residence, citizenship, and access to land for investors who invest USD 500,000 in Rwanda. This law also fixed the minimum initial capital investment requirement for foreign investors at USD 250,000.

In 2006, foreign companies successfully opened operations, merged with local companies, and participated in privatization programs. No statutory limits on foreign ownership or control exist, and there is no official economic or industrial strategy that has discriminatory effects on foreign investors. In fact, there isn't a single statutory restriction of investment in any sector in Rwanda.

Nonetheless, the legal infrastructure is still in the developing stages. For example, the judicial system has difficulty upholding the sanctity of contracts because there are no commercial courts. The law establishing commercial courts was approved by Ministerial council December 13, 2006. There is currently no specialized commercial court in Rwanda. The government is working to develop the necessary investment infrastructure; however, much remains to be done.

A business law reform commission is in place to draft major business laws including intellectual property protection, contract law, bankruptcy regulations and arbitration law.

There is no mandatory screening of foreign investment but the Rwanda Investment and Export Promotion Agency (RIEPA) does evaluate business plans with the objective of recording incoming foreign investments, allocating investment incentives to qualified foreign investors, and determining the commitment of investors. The evaluation is not mandatory for those who do not need tax incentives or an investment certificate. This practice does not limit competition or protect domestic interests.

In fact, the government through tax incentives and outreach has proven to be extremely welcoming and encouraging of foreign investment. The only difference in treatment between foreign company and a domestic one is the initial capital requirement for official

registration - $250k for foreign investors, $100k for domestic investors. This has not proven to be a barrier because foreign investors who are not interested in an investment certificate and tax incentives can start businesses irrespective of the initial capital requirement.

Foreign investors can acquire real estate but there is a general limit on land where both Local and foreign investors are not allowed to own land. Land is owned by the government, but both foreign and local investors acquire land through lease-hold agreements that extend from 50 to 99 years. They are given property titles which are binding as collateral by commercial banks.

The government of Rwanda established the Privatization Secretariat and the National Tender Board to ensure transparency and foreign companies have participated equally and successfully.

In 2005, the law establishing the Rwanda Investment Promotion Agency was expanded to include export promotion. A one stop shop center for investors became fully operational in the same year of 2005. Licenses, approvals, work permits and tax advisory are granted in the one shop center. No discrimination has been reported against foreign investors who pass through the Rwanda Investment and Export Promotion Agency. Investors who do not pass through RIEPA, however, are likely to have clearing agents who demand petty bribes to facilitate quick service. Legally, foreign firms are treated equally with the regards to taxes, access to lisences, approvals, and procurement.

No laws exist specifically authorizing private firms to adopt articles of incorporation or association which limit or prohibit foreign investment, participation, or control. No such practices have been reported either.

RIEPA organized two investment conferences in attempts to attract

foreign investment. On many occasions RIEPA directors and local businesses joined the President of Rwanda in tours around the world to attract foreign investors. Conferences to encourage investors were held in the US, China, India, Mauritius and South Africa. RIEPA assists potential investors in securing all required approvals, certificates, land for their projects, work permits and obtaining tax incentives.

In 2006, Rwanda Investment Promotion Agency registered 69 investment projects worth $245.5millions, foreign direct investments accounted for 49%. By comparison, only 40 investment projects were registered in 2005.

CONVERSION AND TRANSFER POLICIES

There is no difficulty in obtaining foreign exchange, or transferring funds associated with an investment into a freely usable currency and at a legal market clearing rate. In 1995 the government of Rwanda established a market-determined exchange rate system under which all lending and deposit interest rates were liberalized. The Central Bank holds weekly foreign exchange auctions freely accessed by commercial banks and foreign exchange bureaus.

Investors can remit payments only through authorized commercial banks, not through any parallel markets. There is no limit on the inflow or outflow of funds, but justification for high value transfers is required by the central bank to facilitate the oversight of potential money laundering.

There is no limitation on the inflow of funds for remittances but there some restrictions on the outflow of export earnings. Export earnings must be repatriated within three months after the goods cross the border unless the exporter makes arrangements to have more time. Tea proceeds must be deposited after the auction in Mombasa. Repatriated export earnings deposited in commercial banks must match the exact declaration the exporter used on crossing the border. Justifications are required to transfer more than USD 50,000 per year from Rwandan commercial banks. Rwandan working overseas can make remittances to their home country.

It takes three days to transfer money using SWIFT financial services and investors are allowed to use many other financial services such as Western Union and MoneyGram, which may be faster.

The Rwandan Franc (RwF) is convertible for essentially all business transactions since March 6, 1995. Rwanda has a liberal monetary system and complies with IMF Article VIII and all Organization for Economic Cooperation and Development (OECD) convertibility requirements. The Rwandan Franc exchange rate is set against a batch of currencies, including the Euro, the Pound Sterling, and the USD.

EXPROPRIATION AND COMPENSATION

The Government of Rwanda is authorized to expropriate property if "in the public interest" and "for qualified private investments." Under the recently released Rwandan land tenure law compensation is negotiated directly between the buyer and the seller. Expropriatory actions have been common in the capital because Kigali is undergoing major development, although it does not appear to be done in a discriminatory fashion. No industrial plant has been expropriated thus far, as expropriation has been limited to residential and small farming plots. Expropriated citizens often complain of late and unfair compensation when the government is responsible for payments. This will continue to be an issue until the expropriation law and commercial courts are finalized and implemented.

There are no laws that force local ownership, but the government has decreed that owners risk losing land that they let lie fallow.

DISPUTE SETTLEMENT

The government of Rwanda established an arbitration center in 1998 as an alternative dispute resolution mechanism but it has not lived up to expectations according to businesses that have utilized it. Rwanda is a member of the International Center for the Settlement of Investment Disputes (ICSID) and African Trade Insurance Agency (ATI), which are supported by the World Bank and Lloyds of London. ATI covers risks against restrictions on import and export activities, inconvertibility, expropriation, war, and civil disturbances.

Rwanda currently has no specialized commercial court but the government approved the creation of commercial courts on December

13, 2006. Meanwhile the recent justice system reform should reduce the bulk of cases reaching supreme courts and should pave way for commercial cases.

Until commercial courts and contractual laws are enacted and operate appropriately, there will be no effective means for enforcing property and contractual rights. The law governing commercial establishments, the investment law, the law on privatization and public investment, the land law and the law on protection and conservation of the environment are main laws governing investments in Rwanda. A law on public procurement, a law on privately financed infrastructure projects and a law on insurance and mining are still lacking.

Judgments of foreign courts and governing law clauses in agreements are accepted and enforced by local courts according to the above stipulation. There have been few private investment disputes in Rwanda, and the government has never been involved as a complainant or respondent in World Trade Organization dispute settlement.

A US investor is currently involved in a commercial dispute that was not resolved through arbitration. Restructuring of the court system has created continuous delays and frustration for the investor. Rwanda signed and ratified the Multilateral Investment Guarantee Agency (MIGA) convention on October 27, 1989. MIGA issues guarantees against non-commercial risks to enterprises that invest in member countries.

PERFORMANCE REQUIREMENTS AND INCENTIVES

The Government maintains measures that are alleged to violate the WTO's TRIMs text where custom valuation on imported used goods does not respect transaction invoices and parallel imports of goods where patents and original trade marks are not registered and recognized. However, as a least developed country Rwanda has up to 2013 to abide by specific WTO's Trade Related and Investment measures.

Performance requirements are not imposed as a condition for establishing, maintaining, or expanding investment. They are mostly imposed as a condition to access tax and investment incentives. Investors who demonstrate capacity to add more value, technology transfer, and invest in priority sectors enjoy more tax and investment incentives which include VAT exemptions on all imported raw materials, 100% write-off on research and development costs, 5% to 7% reduction in corporate income tax if the company exports products and services valued from USD 3 to USD 5 million, duty exemption on equipment and a favorable accelerated rate of depreciation of 50% in the first year.

Although there are no legal obligations regarding these matters, foreign investors are encouraged to transfer technology and expertise to local staff in the development of human resources. Work permits are granted to foreign expatriates as long as they are key personnel and fall into categories of skilled labor where Rwandans are not available.

RIEPA was established in 1998 to encourage investment and has been relatively successful in developing important incentives and publicizing investment opportunities. Registered investors obtain certificates that bring benefits, including exemption from value-added tax and duties when importing machinery, equipment, and raw materials. RIEPA also assists with the issuance of expatriate work permits, securing all the required government permits, and assisting with land acquisition if required. Grants and special access to credit is provided to investors promoting rural areas. There no import quotas for investors.

There is no legal requirement that investors purchase from local sources or export a certain percentage of output. In order to benefit from incentives of the free export zone, a certain percentage of the finished product must be exported. There is no condition regarding access to foreign exchange in relation to exports.

More tax incentives are given to investors who create significant export-oriented growth, since export enterprises in Rwanda may qualify for the benefits of the Free Export Economic Processing Zone (FEEPZ). Determination is made upon request and is based on several factors: exports must total at least 80% of production or exports total at least 10% if manufacturing under bond; the entity must be engaged in the export of services; and capital investment is at least USD $100,000 (local investors and COMESA members) or USD $250,000 (foreign and non COMESA investors). The Rwandan investment

code is currently under review to determine precise duration for exemption from taxes and to provide more incentives for investors. There is no requirement for physical presence at the FEEPZ. Any exporter who fulfills conditions can legally access the free export processing zone incentives without being physically present in the actual zone. The investment law released in March 2006 is intended to assist investors in obtaining the necessary licenses and provides more incentives.

There is no legal obligation that nationals own shares in foreign investments or that shares of foreign equity be reduced over time. Technology transfer can only be imparted to local employees. There is no condition that technology be transferred on certain terms.

Procurements are at the sole discretion of the investor but specific procurement requests can only be approved in case there is need for tax exemption. The Government imposes conditions on permission to invest only in the free export zone. This mainly concerns a specific

geographical area located in Kigali and export requirement, special authorization can be provided to invest in other geographical areas if conditions for the Free Economic Zone are met. Permission to invest in the FEZ does not concern specific percentage of local content whether in goods or services or local equity.

The government is not involved in assessing the type and source of raw materials as a pre requisite for performance but the National Bureau of Standard determines quality standards. Investors are not required to disclose proprietary information to government authorities.

U.S. and other foreign firms are allowed to participate in government/authority financed and/or subsidized research and development programs on a national treatment basis. In fact foreign firms are given special priority in research projects because Rwandan professionals are not well developed in research issues, and foreigners are considered experts.

There are no onerous visa residence or work permit requirements that inhibit foreign investors' mobility. U.S. nationals are not required to have visas for the first 90 days of their stay in Rwanda. Other foreign nationals have their visa processed timely as well. Rwanda Investment and Export Promotion Agency facilitates potential investors to obtain visa and work permits.

Rwanda, in fact, has no discriminatory practices affecting foreign investors.

RIGHT TO PRIVATE OWNERSHIP AND ESTABLISHMENT

Local and foreign investors have the right to own and establish business enterprises in all forms of remunerative activity. Private ownership is preserved in the constitution of Rwanda. The constitution stipulates that every person has the right to private ownership of other types of property, whether personal or in association with others. It cannot be violated except in the public interest, and with procedures that are determined by law, and is subject to fair compensation.

Private entities are also allowed to acquire and to dispose of interests in business enterprises. Foreign nationals may hold shares in locally incorporated companies.
Competing with public enterprises is not a serious concern for the private sector, as the government has divested and continues to divest in public enterprises that would compete with the private sector.

PROTECTION OF PROPERTY RIGHTS

The legal system protects and facilitates acquisition and disposition of all property rights. Investors involved in extensive agriculture have land titles and investors are able to secure property titles, if needed. The recently passed land law stipulates modalities of property registration, but no registries have been established yet. Land titles may be held even without any developments on land and they can be donated or sold.

There is adherence to key international agreements on intellectual property rights and adequate protection of intellectual property rights but as a least developed country, Rwanda has up to 2013 to abide by specific TRIP's arrangements. As a member of COMESA, Rwanda is automatically a member of ARIPO, the African Regional Intellectual Property Organization. It is also a member of WIPO, the World Intellectual Property Organization, and is currently working towards conformity of its legislation to WTO trade-related aspects

of intellectual property. The Ministry of Commerce (MINICOM), the Rwandan Revenue Authority (RRA), and the Rwandan Bureau of Standards (RBS) work together to address issues involving counterfeit products on the Rwandan market. In fact, Rwanda has received much recognition and appreciation from an American firm for destroying contraband shoe polish that had entered the country illegally. Through the

Rwanda Bureau of Standards and the Rwanda Revenue Authority, Rwanda has earned accolades for its protection of intellectual property rights, but many goods make it to market, nonetheless, that violate patents, especially pharmaceutical drugs.

Rwanda has not yet ratified WIPO internet treaties, but steps to implement and enforce the WTO TRIPS agreements have taken place. Intellectual property bills covering patents, trademarks and copyrights have been adopted and will soon be sent to parliament. Registration service agency due to be established will further improve intellectual property rights.

TRANSPARENCY OF THE REGULATORY SYSTEM

The government uses transparent policies and effective laws to foster clear rules of the game, all seemingly consistent with international norms. Institutions such as the Rwanda Revenue Authority, the Ombudsman's office, the Bureau of Standards, the Rwanda Utilities Regulatory Agency, the National Tender Board, the Privatization Secretariat, and the Environment Protection Agency all have clear rules and procedures.

Drafts of some laws including the constitution and the land law were passed though civil society representatives for comments, but there is not a formalized mechanism to publish draft laws for public comment. Nonetheless, there is no government effort to restrict foreign participation in industry standards-setting consortia or organizations.

Some investors complain that the strict enforcement of tax, labor, and environmental laws impede investment, but the transparency and lack of corruption in the regulatory framework is actually a boon to the investment climate for legitimate businesses.

Bureaucratic procedures including those for licenses and permits are not sufficiently streamlined. A draft law establishing a Rwanda Registration Service Agency is currently in parliament. The law is intended to steam line procedures for obtaining trade permits and licenses which are currently exist as unnecessary red tape.

Rwanda established an ombudsman's office in 2004 that monitors transparency and compliance to regulation in all governmental sectors. The Rwanda Utility Regulation Agency, the Auditor General's Office, the Anticorruption Division in the Revenue Authority, the National Bureau of Standards, and the National Tender Board are all in place to enforce regulations as well. Moreover, the press has openly exposed instances of bad debts and malfeasance this year involving private citizens and GOR leaders. This has led to some resignations within the GOR and Rwanda continues fighting corruption.

There are no informal regulatory processes managed by nongovernmental organizations. Legal, regulatory and accounting systems are transparent and consistent with international norms but their results do not display required effects because they lack autonomy in certain circumstances.

A key component of the GOR's regulatory system is the Auditor General's Office, established in 1999 to continuously audit government adherence to fiscal controls. The office managed to make substantial progress in making government finances more transparent according to IMF officials. The Auditor General' report for 2006 cited many accounting irregularities. The report issued to Parliament in October 2006 will be used to examine official conduct of government business; the executive has encouraged the parliament to take action.

There are no private sector or government authority efforts to restrict foreign participation in industry standards-setting consortia or organization. Consumer protection and producers associations exist and run independently. Through the Rwanda Private Sector Federation, the business community has been involved in the formation of most if not all of the economic policy and regulatory framework of the country.

EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

Access to affordable credit is a serious challenge in Rwanda, as interest rates are relatively high. Nonetheless credit is allocated

on market terms and foreign investors are able to get credit on the local market if they have collaterals and bankable projects.

The private sector has limited access to credit instruments because most Rwandan banks are still conservative and trade in limited commercial products. A variety of credit instruments were introduced with the privatization of the commercial banks. Leasing was introduced in 2006 but is limited to two commercial banks and mortgages are being introduced in a single bank. Credit cards are still lacking but debit cards have been introduced.

Rwanda does not have a stock exchange. The central bank encourages and facilitates investments through the sale of treasury bills and bonds, but capital markets and the associated regulatory systems do not exist.

A 2006 United Nations Conference on Trade and Development publication reported that the ratio of non-performing loans to total loans is 24%.

Since 2001, the total capital requirement for commercial bank has been RF 1.5billion (USD 3 million) and RF 3 billion for investments banks.

Since there is no public stock exchange, corporations trade shares among themselves. No hostile takeovers have occurred involving foreign investors, and both the Central Bank and the Rwandan government have been very active in seeking foreign investors for the banking sector. Likewise, private firms have not engaged in arrangements to restrict foreign investment.

Plans are underway to develop capital markets. Ministry of Finance officials are studying the preconditions for such a step and the creation of a regulatory authority. An effective regulatory system is monitored by the Central Bank, which is given high marks by the IMF.

POLITICAL VIOLENCE

Rwanda remains a stable country with little violence. A strong police and military provide an umbrella of security that continues to minimize criminal activity and political disturbances. There have been no incidents involving politically motivated damage to projects or installations since the 1994 war.

Elections in 2003 were peaceful, although significant voting irregularities were documented. Rwanda no longer faces insurgent activity from rebel groups operating in the Democratic Republic of Congo. Rwanda acts in concert with its neighbors to fight crime and terrorism, and the GOR actively cooperates in efforts to identify and freeze the assets of known terrorist individuals or organizations.

CORRUPTION

The GOR senior leadership maintains a consistent policy and law of combating corruption within Rwandan society. Although less corrupt than many other African governments, the GOR, despite its firm hold on public policy, is confronted with periodic allegations of misconduct or persons using their office for personal gain. In general, such incidents do not go unpunished when proved and enforcement is equal for both foreign and local investors. When corruption involves high-ranking officials, they are dismissed or prosecuted. Senior government officials appear to take pride in

Rwanda's reputation as being tough on corruption, and the National Assembly takes an active role in investigating public officials accused of corruption and, in concert with the recently established Ombudsman Office, has exposed corrupt public officials, several of whom have been forced to resign.

Rwanda has signed and ratified the UN Anticorruption Convention. It is a signatory of the OECD Convention on Combating Bribery. It is also a signatory of the African Union Anticorruption Convention. Giving and accepting a bribe is a criminal act penalized by law, and penalties depend on circumstances surrounding the specific cases. As a result, U.S firms have not identified corruption as obstacle for investment.

Corruption if generally very low but the 2006 Auditor General report highlighted irregularities in government procurement. Businessmen report occurances of petty corruption in the customs clearing

process, but there is almost no reported corruption in transfers, dispute settlement, regulatory system, taxation and performance requirement.

A local company cannot deduct a bribe to a foreign official from taxes. In fact, a bribe by a local company to a foreign official is a crime in Rwanda.

Institutions including the Ombudsman office, the Anti-Corruption Unit in the Rwanda Revenue Authority, the Auditor General's Office identify corruption cases, but the police and national prosecutor's office prosecute the actual acts. The National Tender Board and Rwanda Revenue Authority were also established to combat corruption.

Transparency International or other regional non governmental organizations do not operate in Rwanda, yet periodically issue reports on Rwanda.

BILATERAL INVESTMENT AGREEMENTS AND AGOA

Rwanda is eligible for trade preferences under the African Growth and Opportunity Act (AGOA), which the United States enacted to extend duty-free and quota-free access to the U.S. market for nearly all textile and handicraft goods produced in eligible beneficiary countries. A Trade and Investment Framework Agreement (TIFA) was signed between the U.S. and Rwanda in 2006, and initial discussions have begun to lay the groundwork for a Bilateral Investment Treaty.

OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

The Overseas Private Investment Corporation (OPIC) has had a single investment guarantee in Rwanda: Sorwathe, an American-owned tea factory received an additional loan guarantee from OPIC in spring ¶2004.

The exchange rate regime is stable in the event an inconvertibility claim arises. OPIC currently has no loan program in Rwanda but given the enduring stability in the country and pending investment climate changes, OPIC officials have expressed strong interest in expanding OPIC involvement in Rwanda. OPIC is expected to expand its program for Rwanda working with the Rwanda Housing Bank.

The Export-Import Bank (EXIM) continues its program to insure short-term export credit transactions involving various payment terms, including open accounts that cover exports to the U.S. of consumer goods, services, commodities, and certain capital goods. Rwanda is a member of the Multilateral Investment Guarantee Agency (MIGA) and the African Trade Insurance Agency (ATI).

LABOR

General labor is availability and improving, but there is a shortage of skilled labor, including accountants, lawyers and technicians. Higher institutes of technology, many private universities, and vocational institutes are improving and producing more and more qualified graduates each year. A new labor code that respond to investor's demand of eliminating labor rigidities in under review.

Rwanda attempts to adhere to ILO convention protecting worker rights at same time balancing to minimize complaints from investors. Policies to protect workers in special labor conditions exist, but enforcement remains questionable. On-the-job training and technology transfer to local employees is encouraged but not obligatory.

The national labor code was revised in 2000 to eliminate gender discrimination, restrictions on the mobility of labor, and wage controls. Laws relating to insurance are being prepared. Companies will find skills deficits in many sectors when hiring in Rwanda, but these deficits will continue to shrink as literacy rates increase and more qualified people graduate from Rwandan institutions of higher learning. The general population's literacy rate continues to improve each year since the 1994 Genocide and war. Before 1994 the rate was 64%; for 2003 the rate was 52%, 2006 rate is not available. More than 1,000 students each year for the past three years have completed training at the Kigali Institute of Technology (KIST) and the National University of Rwanda (NUR). These students are fluent in French, English, or both. Several hundred Rwandan students complete their studies abroad each year and return to work in the

country. It is also possible to find qualified labor from South Africa or from neighboring countries such as Congo, Uganda, and Kenya. Movement of this skilled labor force will be further facilitated by entry into the EAC.

FOREIGN TRADE ZONES/FREE PORTS

Rwanda is a member of several sub-regional economic organizations, such as the Economic Community of Central African States (CEEAC), the Economic Community of the Great Lakes (CEPGL), and the Common Market for Eastern and Southern Africa (COMESA), and since 2006 the East African Community (EAC). Member countries in COMESA have a free trade agreement. Goods originating from COMESA countries that fill condition of rules of origin qualify for duty free status. Value addition on imported raw materials must be 35% to qualify for rules of origin of COMESA member states. Rwanda plans to establish a free trade zone in the near future.

FOREIGN DIRECT INVESTMENT STATISTICS

Foreign direct investment statistics from 2001 to 2004 as provided by UNCTAD are as follows. In 2001 FDI was USD 3.8 million and 2.3 in $ per $1000 of GDP, 2002 it was USD 7.4 millions and 4.5 in $ per $1000 of GDP, In 2003 FDI was USD 4.7 millions and 3.0 in $ per $1000 of GDP, In 2004, FDI was USD 10.9 and 5.9 in $ per $1000 of GDP. FDI Statistics for 2005 and 2006 are not yet released.

ARIETTI